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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/3/2022

June 1, 2022

VIA ECF

Honorable Analisa Torres
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Marzullo v. MoviePass Inc., 1:20-cv-00179 (AT)

Dear Judge Torres:

We represent Plaintiff Joseph Marzullo (“Plaintiff”) in the above-captioned case and write to respectfully request leave of Court to serve defendant MoviePass Inc. (“Defendant”) with the Order to Show Cause and supporting default papers via the Office of the Secretary of State for the State of New York or, in the alternative, through Defendant’s registered agent in the State of Delaware. Plaintiff also requests an additional 30 days from the date of the proposed order to effectuate service in the requested manner. No other scheduled dates will be impacted by this request.

By way of background, on April 13, 2022, the Court ordered Plaintiff to serve Defendant with the Order to Show Cause and motion for default judgment by personal service and indicated that no alternative forms of service would be accepted. [Dkt No. 28] Subsequent thereto, Plaintiff engaged a process server to serve Defendant at its last known business address, 175 Varick Street, 6th Floor, New York, NY 10014, which is also the “Principal Executive Office” address listed for Defendant by the New York Department of State, Division of Corporations. The process server has sworn that Defendant cannot be located at this address, which is the only known business address for Defendant. An affidavit of non-service and due diligence was filed on April 25, 2022 [Dkt. No. 31]

Unable to personally serve Defendant at its Principal Executive Office, Plaintiff then attempted to serve Defendant via one of its corporate officers named Stacy Spikes at her last known address of 609 Greenwich St., New York, NY 10014. Service at that address was refused by a front-desk receptionist, who refused to accept service on behalf of Moviepass or Spikes. An affidavit of non-service and due diligence was filed on May 16, 2022. [Dkt. No. 32]

For good cause shown, Plaintiff respectfully requests that the Court permit Plaintiff to effectuate service of process of the Order to Show Cause and Plaintiff’s



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default motion papers via the Office of the Secretary of State for the State of New York or, in the alternative, through Defendant's registered agent in the State of Delaware. Please note that Defendant is registered to do business in the State of New York and is currently listed as "Active", as per Exhibit A attached hereto.

Plaintiff also requests an additional 30 days from the date of the proposed order to effectuate service in the requested alternate manner. The modified deadline to effectuate service is June 1, 2022 [Dkt. No. 30]. This is the second request for an extension and no other dates will be impacted by this request. Defendant, which is in default, neither consents to nor opposes this request.

GRANTED in part, DENIED in part. By **June 17, 2022**, Plaintiff shall serve Defendant through the Secretary of State and file proof of service on the docket. By **July 7, 2022**, Defendant shall respond to Plaintiff's motion. By **July 14, 2022**, Plaintiff shall file any reply. Plaintiff must also serve a copy of this order through the Secretary of State. The show cause hearing remains scheduled for **September 8, 2022, at 11:00 a.m.**

SO ORDERED.

Dated: June 3, 2022
New York, New York



ANALISA TORRES
United States District Judge